

VENABLE LLP
Witt W. Chang (State Bar No. 281721)
Kostas D. Katsiris (admitted *pro hac vice*)
Ashleigh J. F. Lynn (admitted *pro hac vice*)
WWChang@Venable.com
KDKatsiris@Venable.com
AJLynn@Venable.com
2049 Century Park East, Suite 2300
Los Angeles, CA 90067
Telephone: (310) 229-9900
Facsimile: (310) 229-9901

NOTE: CHANGES MADE BY THE COURT

Attorney for Plaintiff
DOUG HOUGHTON

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DOUG HOUGHTON, an individual,
Plaintiff,
v.
HARLEY FRANCO, an individual,
Defendant.

Case No. 2:23-cv-07145 MWF (JPR)

STIPULATED PROTECTIVE ORDER

Honorable Judge Michael W.
Fitzgerald

1 Plaintiff Doug Houghton (“Plaintiff” or “Houghton”) and Defendant Harley
2 Franco (“Defendant” or “Franco”), by and through their counsel, hereby file this
3 Stipulated Protective Order.

4 **I. PURPOSE**

5 Discovery in this action is likely to involve production of confidential,
6 proprietary, or private information for which special protection from public
7 disclosure and from use for any purpose other than prosecuting this litigation may
8 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
9 enter the following Stipulated Protective Order. The parties acknowledge that this
10 Order does not confer blanket protections on all disclosures or responses to
11 discovery and that the protection it affords from public disclosure and use extends
12 only to the limited information or items that are entitled to confidential treatment
13 under the applicable legal principles. The parties further acknowledge, as set forth
14 in Section XIII.c below, that this stipulated Protective Order does not entitle them to
15 file confidential information under seal, and that Civil Local Rule 79-5 sets forth the
16 procedures that must be followed and the standards that will be applied when a party
17 seeks permission from the court to file material under seal.

18 **II. GOOD CAUSE STATEMENT**

19 This action is likely to involve valuable research, development, commercial,
20 financial, technical, and other proprietary information, for which special protection
21 from public disclosure and from use for any purpose other than prosecution of this
22 action is warranted. Such confidential and proprietary materials and information
23 may consist of, among other things, confidential business or financial information,
24 information regarding confidential business practices, or other confidential research,
25 development, or commercial information (including information implicating privacy
26 rights of third parties), information otherwise generally unavailable to the public,
27 and information which may be privileged or otherwise protected from disclosure
28 under state or federal statutes, court rules, case decisions, or common law.

1 Disclosure of this information could potentially harm both Houghton and Franco,
2 who are employed by and/or have a financial interest in multiple business entities at
3 issue in this case. Accordingly, to expedite the flow of information, to facilitate the
4 prompt resolution of disputes over confidentiality of discovery materials, to ensure
5 adequately protect information the parties are entitled to keep confidential, to ensure
6 that the parties are permitted reasonable necessary uses of such material in
7 preparation for and in the conduct of trial, to address their handling at the end of
8 litigation, and serve the ends of justice, a protective order for such information is
9 justified in this matter. It is the intent of the parties that information will not be
10 designated as confidential for tactical reasons and that nothing be so designated
11 without a good faith belief that it has been maintained in a confidential, non-public
12 manner, and there is good cause why it should not be part of the public record in this
13 case.

14 **III. DEFINITIONS**

15 a. Action: The pending lawsuit, *Houghton v. Franco*, Case No.
16 2:23-cv-07145-MFW.

17 b. Challenging Party: A Party or Non-Party that challenges the
18 designation of information or items under this Order.

19 c. “CONFIDENTIAL” Information or Items: Information
20 (regardless of how it is generated, stored, or maintained) or tangible things that
21 qualify for protection under Federal Rule of Civil Procedure 26(c) and as specified
22 above in the Good Cause Statement.

23 d. Counsel: Attorneys who are retained by to represent or advise a
24 party to this Action and have appeared in this Action on behalf of that party or are
25 affiliated with a law firm which has appeared on behalf of that party, including
26 support staff.

27 e. Designating Party: A Party or Non-Party that designates
28 information or items that it produces in disclosures or in responses to discovery as

1 “CONFIDENTIAL.”

2 f. Disclosure or Discovery Material: All items or information,
3 regardless of the medium or manner in which it is generated, stored, or maintained
4 (including, among other things, testimony, transcripts, and tangible things) that are
5 produced or generated in disclosures or responses to discovery in this matter.

6 g. Expert: A person with specialized knowledge or experience in a
7 matter pertinent to the litigation who has been retained by a Party or its counsel to
8 serve as an expert witness or as a consultant in this Action.

9 h. Non-Party: Any natural person, partnership, corporation,
10 association, or other legal entity not named as a Party to this action.

11 i. Party: Any party to this Action, including all of their retained
12 Experts and Counsel (and their respective support staffs).

13 j. Producing Party: A Party or Non-Party that produces Disclosure
14 or Discovery Material in this Action.

15 k. Professional Vendors: Persons or entities that provide litigation
16 support services (e.g. photocopying, videotaping, preparing exhibits or
17 demonstrations, and organizing, storing, or retrieving data in any form or medium)
18 and their employees and subcontractors.

19 l. Protected Material: Any Disclosure or Discovery material that is
20 designated as “CONFIDENTIAL.”

21 m. Receiving Party: A Party that receives Disclosure or Discovery
22 Material from a Producing Party.

23 **IV. SCOPE**

24 The protections conferred by this Stipulation and Order cover not only
25 Protected Material (as defined above), but also (1) any information copied or
26 extracted from Protected Material; (2) all copies, excerpts, summaries, or
27 compilations of Protected Material; and (3) any testimony, conversations, or
28 presentations by Parties or their Counsel that might reveal Protected Material.

1 This Order does not govern the use of Protected Material at trial. Any use of
2 the Protected Material at trial shall be governed by the orders of the trial judge.

3 **V. DURATION**

4 Even after final disposition of this litigation, the confidentiality obligations
5 imposed by this Order shall remain in effect until a Designating Party agrees
6 otherwise in writing or a court order otherwise directs. Final disposition shall be
7 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
8 or without prejudice; and (2) final judgment herein after the completion and
9 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
10 including the time limits for filing any motions or applications for extension of time
11 pursuant to applicable law.

12 **VI. DESIGNATING PROTECTED MATERIAL**

13 a. Exercise of Restraint and Care in Designating Material for
14 Protection. Each Party or Non-Party that designates information or items for
15 protection under this Order must take care to limit any such designation to specific
16 material that qualifies under the appropriate standards. To the extent practicable,
17 the Designating Party must designate for protection only those parts of material,
18 documents, items, or oral or written communications that qualify so that other
19 portions of the material, documents, items, or communications for which protection
20 is not warranted are not swept unjustifiably within the ambit of this Order.
21 Indiscriminate or routinized designations are prohibited. Designations that are
22 shown to be clearly unjustified or that have been made for an improper purpose (e.g.,
23 to unnecessarily encumber the case development process or to impose unnecessary
24 expenses and burdens on other parties) may expose the Designating Party to
25 sanctions. If it comes to a Designating Party's attention that information or items
26 that it designated for protection do not qualify for protection, that Designating Party
27 must promptly notify all other Parties that it is withdrawing the inapplicable
28 designation.

1 b. Manner and Timing of Designations. Except as otherwise
2 provided in this Order, or as otherwise stipulated or ordered, Disclosure or Discovery
3 Material that qualifies for protection under this Order must be clearly so designated
4 before the material is disclosed or produced. Designation in conformity with this
5 Order requires:

6 i. For information in documentary form (e.g., paper or
7 electronic documents, but excluding transcripts or other pretrial or trial proceedings),
8 that the Producing Party affix the legend “CONFIDENTIAL” (hereinafter
9 “CONFIDENTIAL legend”) to each page that contains protected material. If only
10 a portion or portions of the material on a page qualifies for protection, the Producing
11 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
12 markings in the margins).

13 ii. For testimony given in depositions, that the Designating
14 Party identify the Disclosure or Discovery Material on the record before the close of
15 the deposition that is protected.

16 iii. For information produced in some form other than
17 documentary and for any other tangible items, that the Producing Party affix in a
18 prominent place on the exterior of the container or containers in which the
19 information is stored the “CONFIDENTIAL” legend. If only a portion or portions
20 of the information warrants protection, the Producing Party, to the extent practicable,
21 shall identify the protected portion(s).

22 c. Inadvertent Failures to Designate. If timely corrected, an
23 inadvertent failure to designate qualified information does not, standing alone, waive
24 the Designating Party’s right to secure protection under this Order for such material.
25 Upon timely correction of a designation, the Receiving Party must make reasonable
26 efforts to assure that the material is treated in accordance with the provisions of this
27 Order.

28 **VII. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

1 a. Timing of Challenges. Any Party or Non-Party may challenge a
2 designation of confidentiality at any time that is consistent with the Court's
3 scheduling Order.

4 b. Meet and Confer. The Challenging Party shall initiate the
5 dispute resolution procedures under Local Rule 37.1 *et seq.*

6 c. Burden of Persuasion. The burden of persuasion in any such
7 challenge shall be on the Designating Party. Frivolous challenges, and those made
8 for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens
9 on other parties) may expose the Challenging Party to sanctions. Unless the
10 Designating Party has waived or withdrawn the confidentiality designation, all
11 parties shall continue to afford the material in question the level of protection to
12 which it is entitled under the Producing Party's designation until the Court rules on
13 the challenge.

14 **VIII. ACCESS TO AND USE OF PROTECTED MATERIAL**

15 a. Basic Principles. A Receiving Party may use Protected Material
16 that is disclosed or produced by another Party or by a Non-Party in connection with
17 this Action only for prosecuting, defending, or attempting to settle this Action. Such
18 Protected Material may be disclosed only to the categories of persons and under the
19 conditions described in this Order. When the Action has been terminated, a
20 Receiving Party must comply with the provisions of Section XIV below. Protected
21 Material must be stored and maintained by a Receiving Party at a location and in a
22 secure manner that ensures that access is limited to the persons authorized under this
23 Order.

24 b. Disclosure of "CONFIDENTIAL" Information or Items. Unless
25 otherwise ordered by the Court or permitted in writing by the Designating Party, a
26 Receiving Party may disclose any information or item designated as
27 "CONFIDENTIAL" only to:

28 i. The Receiving Party's Counsel, as well as employees of

1 Counsel to whom it is reasonably necessary to disclose the information for this
2 Action;

3 ii. Experts of the Receiving Party to whom disclosure is
4 reasonably necessary for this Action and who have signed the “Acknowledgement
5 and Agreement to be Bound” (Exhibit A);

6 iii. The court and its personnel;

7 iv. Court reporters and their staff;

8 v. Professional jury or trial consultants, mock jurors, and
9 Professional Vendors to whom disclosure is reasonably necessary for this Action
10 and who have signed the “Acknowledgement and Agreement to be Bound” (Exhibit
11 A);

12 vi. The author or recipient of a document containing the
13 information or a custodian or other person who otherwise possessed or knew the
14 information;

15 vii. During their depositions, witnesses and attorneys for
16 witnesses in the action to whom disclosure is reasonably necessary, provided: (1)
17 the deposing party requests that the witness sign Exhibit A; and (2) they will not be
18 permitted to keep any confidential information, unless otherwise agreed by the
19 Designating Party or ordered by the Court. Pages of transcribed deposition
20 testimony or exhibits to depositions that reveal Protected Material may be separately
21 bound by the court report and may not be disclosed to anyone except as permitted
22 under this Order; and

23 viii. Any mediator or settlement officer, and their supporting
24 personnel, mutually agreed upon by any of the parties engaged in settlement
25 discussions or appointed by the Court.

26 **IX. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
27 **PRODUCED IN ANOTHER LITIGATION**

28 If a Party is served with a subpoena or a court order in another litigation that

1 compels disclosure of any information or items designated in this Action as
2 “CONFIDENTIAL,” that Party must:

3 a. Promptly notify in writing the Designating Party. Such
4 notification shall include a copy of the subpoena or court order unless prohibited by
5 law;

6 b. Promptly notify in writing the party who caused the subpoena or
7 order to issue in the other litigation that some or all of the material covered by the
8 subpoena or order is subject to this Protective Order. Such notification shall include
9 a copy of this Order; and

10 c. Cooperate with respect to all reasonable procedures sought to be
11 pursued by the Designating Party whose Protected Material may be affected.

12 If the Designating Party timely seeks a protective order, the Party served with
13 the subpoena or court order shall not produce any information designated in this
14 action as “CONFIDENTIAL” before a determination by the court from which the
15 subpoena or order issued, unless the Party has obtained the Designating Party’s
16 permission. The Designating Party shall bear the burden and expense of seeking
17 protection in that court of its confidential material, and nothing in these provisions
18 should be construed as authorizing or encouraging a Receiving Party in this Action
19 to disobey a lawful directive from another court.

20 **X. NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
21 PRODUCED IN THIS LITIGATION**

22 a. The terms of this Order are applicable to information produced
23 by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such
24 information produced by Non-Parties in connection with this litigation is protected
25 by the remedies and relief provided by this Order. Nothing in these provisions
26 should be construed as prohibiting a Non-Party from seeking additional protections.

27 b. In the event that a Party is required, by a valid discovery request,
28 to produce a Non-Party’s confidential information in the Party’s possession, and the

1 Party is subject to an agreement with the Non-Party not to produce the Non-Party's
2 confidential information, then the Party shall:

3 i. Promptly notify in writing the Requested Party and the
4 Non-Party that some or all of the information requested is subject to a confidentiality
5 agreement with the Non-Party;

6 ii. Promptly provide the Non-Party with a copy of the
7 Stipulated Protective Order in this Action, the relevant discovery request(s), and a
8 reasonably specific description of the information requested; and

9 iii. Make the information requested available for inspection
10 by the Non-Party, if requested.

11 c. If the Non-Party fails to seek a protective order from this court
12 within 14 days of receiving the notice and accompanying information, the Receiving
13 Party may produce the Non-Party's confidential information responsive to the
14 discovery request. If the Non-Party timely seeks a protective order, the Receiving
15 Party shall not produce any information in its possession or control that is subject to
16 the confidentiality agreement with the Non-Party before a determination by the
17 court. Absent a court order to the contrary, the Non-Party shall bear the burden and
18 expense of seeking protection in this court of its Protected Material.

19 **XI. UNAUTHORIZED DISCLOSURE OF PROTECTED
20 MATERIAL**

21 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
22 Protected Material to any person or in any circumstance not authorized under this
23 Order, the Receiving Party must immediately (a) notify in writing the Designating
24 Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
25 unauthorized copies of the Protected Material, (c) inform the person or persons to
26 whom unauthorized disclosures were made of all terms of this Order, and (d) request
27 such person or persons to execute Exhibit A.

28 **XII. INADVERTENT PRODUCTION OF PRIVILEGED OR**

1 **OTHERWISE PROTECTED MATERIAL**

2 When a Producing Party gives notice to Receiving Parties that certain
3 inadvertently produced material is subject to a claim of privilege or other protection,
4 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
5 Procedure 26(b)(5)(B).

6 **XIII. MISCELLANEOUS**

7 a. Rights to Further Relief. Nothing in this Order abridges the right
8 of any person to seek its modification by the Court in the future.

9 b. Right to Assert Other Objections. By stipulating to the entry of
10 this Order, no party waives any right it otherwise would have to object to disclosing
11 or producing any information or item on any ground not addressed in this Order.
12 Similarly, no Party waives any right to object on any ground to use evidence of any
13 of the material covered by this Order.

14 c. Filing Protected Material. A Party that seeks to file under seal
15 any Protected Material must comply with Civil Local Rule 79-5. Protected Material
16 may only be filed under seal pursuant to a court order authorizing the sealing of the
17 specific Protected Material at issue. If a Party's request to file Protected Material
18 under seal is denied by the Court, then the Receiving Party may file the information
19 in the public record unless otherwise instructed by the Court.

20 **XIV. FINAL DISPOSITION**

21 After the final disposition of this Action, as defined in Section V above, within
22 60 days of a written request by the Designating Party, each Receiving Party must
23 return all Protected Material to the Producing Party or destroy such material. As
24 used in this subsection, "all Protected Materials" includes all copies, abstracts,
25 compilations, summaries, and any other format reproducing or capturing any of the
26 Protected Material. Whether the Protected Material is returned or destroyed, the
27 Receiving Party must submit a written certification to the Producing Party (and, if
28 not the same person or entity, to the Designating Party) by the 60 day deadline that

1 (1) identifies (by category, where appropriate) all the Protected Material that was
2 returned or destroyed and (2) affirms that the Receiving Party has not retained any
3 copies, abstracts, compilations, summaries, or any other format reproducing or
4 capturing any of the Protected Material. Notwithstanding this provision, Counsel
5 are entitled to retain an archival copy of all pleadings, motion papers, trial,
6 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
7 and trial exhibits, expert reports, attorney work product, and consultant and expert
8 work product, even if such materials contain Protected Material. Any such archival
9 copies that contain or constitute Protected Material remain subject to this Protective
10 Order as set forth in Section VIII.

11 **XV. VIOLATIONS OF THIS ORDER**

12 Any violation of this Order may be punished by any and all appropriate
13 measures including, without limitation, contempt proceedings and/or monetary
14 sanctions.

15 **IT IS SO STIPULATED**, through counsel of record.

16
17 DATE: April 15, 2024

VENABLE LLP

18
19 By: /s/ Witt W. Chang
20 Witt W. Chang

21 *Attorney for Plaintiff DOUG HOUGHTON*

22
23
24
25
26 DATE: April 15, 2024

BG LAW LLP

27
28 By: /s/ Jerrold L. Bregman
Jerrold L. Bregman

1 Jason B. Komorsky
2 Ryan F. Coy
3

4

5

6 *Attorney for Defendant HARLEY FRANCO*

7 APPROVED AND SO ORDERED:
8

9 Date: 4/23/2024
10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

20 HONORABLE JEAN P. ROSENBLUTH
21 UNITED STATES MAGISTRATE JUDGE
22
23
24
25
26
27
28

VENABLE LLP